

11 APR 1970

OLC #78-1652

NOTE FOR: Executive Secretary

FROM:   
Assistant General Counsel

SUBJECT: University of Pennsylvania Proposed Guidelines on  
Relations with CIA

1. Tony Lapham has asked me to provide the Deputy Director and DCI with information copies of an exchange of correspondence which we have had with the University of Pennsylvania concerning its recently promulgated proposed draft policy statement covering relationships between CIA and the University of Pennsylvania "community."

2. Attached are the pertinent documents. If further information is required, please advise.



cc: DDO, w/atts.  
IG, w/atts.  
CAR/NFAC, w/atts.

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Washington, D. C. 20505

OGC 78-2261

10 April 1978

Stephen B. Burbank, Esq.  
General Counsel  
University of Pennsylvania  
Philadelphia, Pennsylvania 19174

Dear Mr. Burbank:

Thank you again for your letter of 20 February 1978 forwarding for our review a draft statement setting forth "General Policies Regarding Issues of Concern in Relationships Between the University of Pennsylvania and Members of the University Community, and Intelligence Organizations."

At the outset, let me say that in several major respects current CIA practices are already largely consistent with the thrust of many of the proposed policies contained in the draft statement. For instance, as is noted in the statement, it is contrary to established CIA policy to obtain the unwitting services of staff and faculty members of U.S. academic institutions. In addition, CIA will enter into classified and unclassified contracts and other arrangements with U.S. academic institutions of higher learning only if senior management officials of the institution concerned are made aware of the Agency's sponsorship. Furthermore, pursuant to Federal law, CIA will neither solicit nor receive copies of identifiable school records relating to any student (regardless of citizenship) attending a United States academic institution without the express authorization of the student or, if the student is below the age of 18, his parents.

I might also say that this Agency supports the principle espoused in the draft statement that a university's "policies applicable to intelligence organizations should be identical with those applicable to all other extramural organizations." As you may know, it is our firm belief that at a minimum it is both unfair and illogical for any set of such guidelines issued by an academic institution to attempt to regulate the private lives of its

membership in a manner which discriminates against or singles out any particular group, profession or segment of society. We do find it regrettable, therefore, that the draft policy statement stops short of applying this principle in a uniform, across-the-board fashion and instead in at least one area (i.e., the disclosure of factual information about a member of the University community) imposes more stringent restrictions on intelligence organizations than on other extramural organizations.

All of the above comments notwithstanding, our overriding difficulty with and objection to the draft statement stem not from any requirements which are directly imposed on CIA (there are none, as best as we can judge) but rather are based on what seems to us to be excessive, arbitrary, and potentially chilling restraints which some of the policies place on the right of privacy and freedom of choice of individuals covered by the statement's broad and somewhat ambiguous definition of the term "University community." Our concern in this area is largely prompted by this Agency's experience in dealing with staff and faculty members of U.S. academic institutions. As you are no doubt aware, CIA enters into personal service contracts and other continuing relationships with individuals in many walks of life, including academics. As previously indicated, Agency policy requires all such individuals to be made aware that they are dealing with CIA, so that under no circumstances do we seek or obtain services or assistance from such individuals on an unwitting basis. On occasion, security considerations preclude the disclosure of these relationships to any third parties. More frequently, however, these relationships remain confidential at the insistence of the individuals themselves, their concerns being that they might otherwise be exposed to harassment or other adverse consequences. In the case of academic staff and faculty, as in other cases, we see no reason and feel no responsibility to overrule these individual preferences by requiring that relationships be disclosed to the institutions for prior approval. Rather, we believe that the decision as to disclosure should be left to the discretion of the individuals involved.

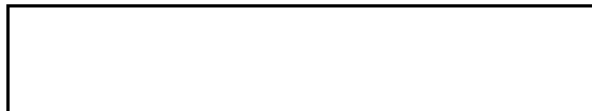
We note that the draft statement specifically acknowledges that "University policies regarding issues of concern in relationships between members of the University community and intelligence organizations must also be consistent with the maintenance of individuals rights and freedoms." Ironically and unfortunately, however, much of the actual substance of the statement appears to undercut this principle by flatly requiring, for example, full-time faculty or staff members to adhere to the policies articulated therein "at all times" so as to cover any activities which they may choose to pursue in a strictly off-duty or off-campus capacity and which have no effect or connection whatsoever with their official relationship with the University. In another

particularly striking example of the pitfalls entailed in formulating policies of such wide breadth and vague scope, it is elsewhere provided that "members of the University community may not undertake activities on behalf of an intelligence organization which in any way extend beyond or are inconsistent with their normal University activities." The above restriction seems to us to be especially noteworthy in three respects: 1) as previously noted, it singles out for special and more stringent standards intelligence organizations; 2) the words "extend beyond" seem to effectively preclude any privately pursued outside activity on behalf of CIA, no matter how innocuous, and including open as well as confidential relationships; and 3) since it specifically applies to conduct which extends beyond or is inconsistent with University-related activities, the restriction, if read literally, has the anomalous and presumably unintended effect of tacitly allowing activities on behalf of an intelligence organization which flow from and relate to an individual's "normal" University activities.

Although our disagreement with these and certain other aspects of the University of Pennsylvania's proposed policies are clearly significant, we need not belabor these differences at this time. CIA appreciates the fact that the draft statement recognizes and makes a sincere effort to deal with the difficult and complex problem of maintaining a balance between the intellectual independence of academe on the one hand and the needs of the nation and the rights of individuals on the other. We believe that reasonable people may honestly disagree on whether any type of assistance made by a member of the U.S. academic community to an intelligence organization is advisable or proper. In the final analysis, however, it seems to us that the ultimate decision must be left to the individual to make.

Again, we thank you for your consideration in allowing us the opportunity to offer comments on your draft statement.

Sincerely,



Anthony A. Lapham  
General Counsel

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*UNIVERSITY of PENNSYLVANIA*

PHILADELPHIA 19174

STEPHEN B. BURBANK  
~~University Attorney~~  
General Counsel

February 20, 1978

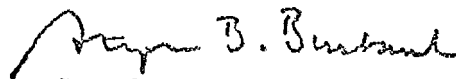
Anthony Lapham, Esq.  
General Counsel  
Central Intelligence Agency  
Washington, D.C. 20005

Dear Mr. Lapham,

Enclosed is a draft of policies regarding issues of concern in relationships between the University of Pennsylvania and members of the University community and intelligence organizations. The draft, which was prepared by an ad hoc University committee, will be published for comment this week.

The Committee has asked me to transmit this draft to you with the belief that the Central Intelligence Agency may wish to comment on one or more of the proposed policies. The Committee would welcome any comments or suggestions, either oral or written. Please call me at (215) 243-7660 if you have any questions.

Sincerely,



Stephen B. Burbank

SBB:kmq  
Enclosure

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*Relations w/ Academics*

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**Remarks:**

Attached provided per   
request for a copy.

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*Circulate - Good*

*Stefan*

**Executive Secretary**

**13 April 1978**

Date

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